

EXECUTIVE ORDER 12915

FEDERAL IMPLEMENTATION OF THE NORTH AMERICAN AGREEMENT ON ENVIRONMENTAL COOPERATION

HISTORY: May 13, 1994; 59 FR 25775, May 18, 1994

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the North American Free Trade Agreement Implementation Act, Public Law 103-182; 107 Stat. 2057 ("NAFTA Implementation Act"), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Policy.

(a) The North American Agreement on Environmental Cooperation ("Environmental Cooperation Agreement") shall be implemented consistent with United States policy for the protection of human, animal or plant life or health, and the environment. The Environmental Cooperation Agreement shall also be implemented to advance sustainable development, pollution prevention, environmental justice, ecosystem protection, and biodiversity preservation and in a manner that promotes transparency and public participation in accordance with the North American Free Trade Agreement ("NAFTA") and the Environmental Cooperation Agreement.

(b) Effective implementation of the Environmental Cooperation Agreement is essential to the realization of the environmental objectives of NAFTA and the NAFTA Implementation Act and promotes cooperation on trade and environmental issues between the United States, Canada, and Mexico.

Sec. 2. Implementation of the Environmental Cooperation Agreement.

(a) Policy Priorities. In accordance with Article 10(2) of the Environmental Cooperation Agreement, it is the policy of the United States to promote consideration of, with a view towards developing recommendations and reaching agreement on, the following priorities within the Council of the Commission for Environmental Cooperation ("Council"):

(1) pursuant to Article 10(2)(m), the environmental impact of goods throughout their life cycles, including the environmental effects of processes and production methods and the internalization of environmental costs associated with products from raw material to disposal;

(2) pursuant to Articles 10(2)(b), (g), (i), (j), and (k), pollution prevention techniques and strategies, transboundary and border environmental issues, the conservation and protection of wild flora and fauna (including endangered species), their habitats and specially protected natural areas, and environmental emergency preparedness and response activities;

(3) pursuant to Articles 10(3) and 10(4), implementation of Environmental Cooperation Agreement provisions and the exchange of information among the United States, Canada, and Mexico concerning the development, continuing improvement, and effective enforcement of, and compliance with, environmental laws, policies, incentives, regulations, and other applicable standards;

(4) pursuant to Article 10(5)(a), public access to environmental information held by public authorities of each party to the Environmental Cooperation Agreement, including information on

hazardous materials and activities in its communities, and the opportunity to participate in decision-making processes related to such public access;

(5) pursuant to Article 10(2)(1), environmental matters as they relate to sustainable development; and

(6) other priorities as appropriate or necessary.

(b) United States Representation on the Council. The Administrator of the Environmental Protection Agency ("EPA") shall be the representative of the United States on the Council. The policies and positions of the United States in the Council shall be coordinated through applicable interagency procedures.

(c) Environmental Effects of the NAFTA. Pursuant to Article 10(6)(d) of the Environmental Cooperation Agreement, the Administrator of the EPA shall work actively within the Council to consider on an ongoing basis the environmental effects of the NAFTA and review progress toward the objectives of the Environmental Cooperation Agreement.

(d) Transparency and Public Participation. The United States, as appropriate, shall endeavor to ensure the transparency and openness of, and opportunities for the public to participate in, activities under the Environmental Cooperation Agreement.

(1) To the greatest extent practicable, pursuant to Articles 15(1) and 15(2), where the Secretariat of the Commission for Environmental Cooperation ("Secretariat") informs the Council that a factual record is warranted, the United States shall support the preparation of such factual record.

(2) To the greatest extent practicable, the United States shall support public disclosure of all nonconfidential and nonproprietary elements of reports, factual records, decisions, recommendations, and other information gathered or prepared by the Commission for Environmental Cooperation ("Commission"). Where requested information is not made available, the United States shall endeavor to have the Commission state in writing to the public its reasons for denial of the request.

(3) The United States shall provide public notice of the opportunity to apply for inclusion on a roster of qualified individuals available to serve on arbitral panels under the Environmental Cooperation Agreement.

(4) The United States shall seek to ensure that the Model Rules of Procedure for dispute settlement established pursuant to Articles 28(1) and 28(2) of the Environmental Cooperation Agreement provide for the preparation of public versions of written submissions and arbitral reports not otherwise made publicly available, and for public access to arbitral hearings.

(5) Consistent with the Environmental Cooperation Agreement, the EPA Administrator shall develop procedures to inform the public of arbitral proceedings and Commission activities under the Environmental Cooperation Agreement, and to provide appropriate mechanisms for receiving public comment with respect to such arbitral proceedings and Commission activities involving the United States.

(6) As a disputing party, the United States shall seek to ensure, pursuant to Article 30 of the Environmental Cooperation Agreement, that the arbitral panels consult with appropriate experts for information and technical advice.

(e) Consultation with States. (1) Pursuant to Article 18 of the Environmental Cooperation Agreement, the EPA Administrator shall establish a governmental committee to furnish advice regarding implementation and further elaboration of the Agreement. Through this committee, or through other means as appropriate, the EPA Administrator and other relevant Federal agencies shall:

(A) inform the States on a continuing basis of matters under the Environmental Cooperation Agreement that directly relate to, or will potentially have a direct impact on, the States, including:

(i) dispute settlement proceedings and other matters involving enforcement by the States of environmental laws; and (ii) implementation of the Environmental Cooperation Agreement, including Council, committee, and working group activities, in any area in which the States exercise concurrent or exclusive legislative, regulatory, or enforcement authority;

(B) provide the States with an opportunity to submit information and advice with respect to the matters identified in section 2(e)(1)(A) of this order; and

(C) involve the States to the greatest extent practicable at each stage of the development of United States positions regarding matters identified in section 2(e)(1)(A) of this order that will be addressed by the Council, committees, subcommittees, or working groups established under the Environmental Cooperation Agreement, or through dispute settlement processes prescribed under the Environmental Cooperation Agreement (including involvement through the inclusion of appropriate representatives of the States).

(2) When formulating positions regarding matters identified in section 2(e)(1)(A) of this order, the United States shall take into account the information and advice received from States.

(3) The United States, where appropriate, shall include representatives of interested States as Members of the United States delegations to the Council and other Commission bodies, including arbitral panels.

Section 3 National Advisory Committee.

The EPA Administrator shall utilize a National Advisory Committee as provided under Article 17 of the Environmental Cooperation Agreement.

Section 4 United States Contributions to the Commission for Environmental Cooperation.

In accordance with section 532(a)(2) of the NAFTA Implementation Act, the EPA is designated as the agency authorized to make the contributions of the United States from funds available for such contributions to the annual budget of the Commission for Environmental Cooperation.

Section 5 Judicial Review.

This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

/s/William J. Clinton

THE WHITE HOUSE

May 13, 1994.

